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Attorneys for Plaintiff  
Nutrishare, Inc.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

Nutrishare, Inc., a California corporation,  
Plaintiff,  
v.  
BioRx, LLC, an Ohio Limited Liability  
Company,  
Defendant.

Case No. 2:08-CV-01252-WBS-EFB

**DECLARATION OF APARNA  
RAJAGOPAL DURBIN IN SUPPORT OF  
OPPOSITION TO DEFENDANT'S  
MOTION TO DISMISS OR TRANSFER**

Date: August 11, 2008  
Time: 2:00 p.m.  
Dept: Courtroom 5  
Judge: Hon. William B. Schubb

I, Aparna Rajagopal-Durbin, declare as follows:

1. I am an attorney licensed to practice law in the State of California and am counsel at Downey Brand LLP, attorneys of record for Nutrishare, Inc. (hereinafter "Nutrishare") in this action. I have personal knowledge of the facts set forth herein, except to the extent they are stated on information and belief, and, if called to testify, I could and would testify competently to the contents hereof.

2. On the afternoon of August 4, 2008, I received documents from the California State Board of Pharmacy in response to a Public Records Act in which my colleague Michael J. Thomas and I sought "Documents, correspondence, license applications, licenses, notes, and other Documents related to BioRx, LLC or NutriThrive, including but not limited to any Documents related to any applications for License No. 99504 (non-resident sterile compounding),

1 and License No. 819 (non-resident pharmacy) or any other licenses or license applications.”  
2 Attached hereto as Exhibit A is a true and correct copy of one of these documents, which is a  
3 letter dated November 7, 2007 from Mark Kestler R. Ph., General Manager of BioRx, to the  
4 Board of Pharmacy, stating that “BioRx maintains records of controlled substances or dangerous  
5 devices dispensed to California patients.”  
6

7 I declare under the laws of the State of California that the foregoing is true and correct.

8 Executed this 7th day of August, 2008 in Sacramento, California.  
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12 /s/ Aparna Rajagopal-Durbin  
13 APARNA RAJAGOPAL-DURBIN  
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**EXHIBIT A**



November 7, 2007

To Whom It May Concern,

BioRx maintains records of controlled substances or dangerous devices dispensed to California patients, so that those records are readily retrievable from other drugs dispensed.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark Kestler R.Ph.", written over a horizontal line.

Mark Kestler R.Ph.  
General Manager  
BioRx